

20 November 1953

MEMORANDUM FOR: Executive Officer, DD/A

FROM : Office of General Counsel

SUBJECT : Audit Exception B-181 -

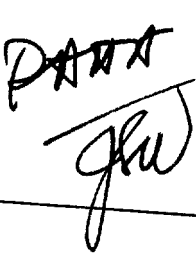
25X1A9a

1. Mr. Houston has referred to me your request for a reexamination of our memorandum of 30 October 1953, same subject, with a view to providing more guidance.

2. This office has been unable to discover any statutory procedure or theory under which the Agency could proceed for financial recoupment against the officer responsible for the "personnel gamble" in this case. If it were decided by appropriate officials of the Agency that the responsible person had been guilty of negligence, discipline could be administered. This could range from reprimand, through suspension up to 90 days, to termination depending on the degree of negligence. The Agency cannot, however, require the responsible person to repay to the Agency the loss caused by his negligence unless the responsible person volunteers to do so.

3. Determination of negligence and the degree thereof must be based on the facts and circumstances at the time of action viewed in the light of reason and not on assumption from a review after the fact. It is easy to assume from an unsatisfactory outcome that there must have been negligence. It is very difficult to determine what the mythical reasonable and prudent man would have done in the same circumstances. In this case, the jury is the DD/A.

25X1A9a

TRANSMITTAL SLIP		
3 December 1953 (Date)		
TO: Colonel White		
BUILDING	ROOM NO.	
REMARKS: As you point out, it is impossible to make the responsible individual pay, in view of General Counsel's opinion. Therefore, recommend approval of the write-off and signature on the attached memorandum. 		
FROM: RDEH		
BUILDING	ROOM NO.	EXTENSION

FORM NO. 36-8
SEP 1946